

DEPARTMENT OF STATE REVENUE

Revenue Ruling ST 98-08

July 24, 1998

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales Taxability of Dietary Supplements

Authority: 45 IAC 2.2-5-40, 45 IAC 2.2-5-41

Taxpayer requests a ruling as to the taxability of various dietary supplements.

STATEMENT OF FACTS

Taxpayer is a multilevel marketer of dietary supplements based in Coppell, TX. Taxpayer markets dietary supplements that scientifically address nutritional support. This is done by providing a general diet plan that addresses an individual's need for recommended amounts of proteins, fats, and carbohydrates, and the appropriate supplements to support those genetic requirements and by providing supplements using plant synthesized molecules that have a dynamic impact on achieving optimal health.

DISCUSSION

Pursuant to IC 6-2.5-2-1, a sales tax, known as state gross retail tax, is imposed on retail transactions made in Indiana. IC 6-2.5-4-1 provides that a retail transaction involves the transfer of tangible personal property. Taxpayer acknowledges that all products except its breakfast bar are dietary supplements for nutritional support. The products exist in capsule form, tablet form, caplet form, powdered form in bulk, and packets of powdered form to be mixed with water. All of these products are subject to Indiana gross retail tax pursuant to 45 IAC 2.2-5-40 that states "dietary supplements in any form" are not exempt from sales tax. The breakfast bar is a carbohydrate dietary supplement in bar form that

contains all natural ingredients including date paste, honey granola (rolled oats, honey, etc.) and various other natural ingredients. The breakfast bar is taxable pursuant to 45 IAC 2.2-5-41 that states confectionery items are not exempt from sales tax. Confectionery items are preparations of fruits, nuts, or popcorn in combination with chocolate, sugar, honey, candy, or other confectionery.

RULING

The Department rules that the items sold by taxpayer are dietary supplements and confectionery items subject to gross retail tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Department of State Revenue